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DEPARTMENT OF STATE
Washington

May 17, 1956

Dear Mr. Richards:

Reference is made to your letter of April 25 and the Department's acknowledgment of April 27, 1956 concerning H.R. 10766, a bill "To authorize the payment of compensation for certain losses and damages caused by United States Armed Forces during World War II."

On July 10, 1943, the Italian campaign then being imminent, President Roosevelt sent a message to Pope Pius XII, the first two paragraphs of which read as follows:

"By the time this message reaches Your Holiness a landing in force of American and British troops will have taken place on Italian soil. Our soldiers have come to rid Italy of Fascism and all its unhappy symbols, and to drive out the Nazi oppressors who are infesting her soil.

"There is no need for me to reaffirm that respect for religious beliefs and for the free exercise of religious worship is fundamental to our ideas. Churches and religious institutions will, to the extent that it is within our power, be spared the devastations of war during the struggle ahead. Throughout the period of operations the neutral status of the Vatican City as well as of the Papal Domains throughout Italy will be respected."

In the course of hostilities against German armed forces the Papal Domain Castel Gandolfo was accidentally damaged on February 2, February 10, May 31 and June 4, 1944 by bombs dropped from United States planes during attacks upon legitimate military targets in close proximity thereto.

Communications addressed to the Department of State by the Apostolic Delegate in Washington following the first of the incidents indicate that

The Honorable

James F. Richards, Chairman
Committee on Foreign Affairs,
House of Representatives

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Vatican authorities considered that such incidents constituted, in the light of President Roosevelt's message, violations of the 'neutralities of Vatican property.' On February 4, 1944 the Department, in reply to one of these communications, said in part as follows:

.... the policy of this Government with respect to Papal property in Italy as declared by the President in his letter to the Pope last July remains as expressed therein and Allied forces have instructions to carry out that policy to the extent that is humanly possible under conditions of modern warfare."

The Department does not believe that the United States correspondence with the Vatican on this subject can properly be regarded as committing the United States to legal liability for damage caused by accidental bombings. Lack of a legal basis for the Vatican claim is further shown by the provisions of the Lateran Treaty of 1929, by which Italy acknowledged the sovereignty of the Vatican City proper, but not of various properties outside the Vatican City known as the Papal Domains. With respect to the latter, including Castel Gandolfo, Article 15 of the Lateran Treaty provides that

....(The Papal Domains), although forming a part of the territory of the Italian state, shall enjoy the immunity guaranteed by international law to the embassies of foreign nations."

It has been pointed out to Vatican representatives that since the Papal Domains were not territory of a neutral state, but had the status of a neutral diplomatic mission located in the territory of a belligerent, there exists no legal basis on which the Vatican's claim can be paid. In this connection it is of interest that the destruction wrought on the embassies of neutrals in Berlin by Allied bombers did not create legal obligations on the part of the Allies to pay damages.

It is considered that the status of the Vatican City and the Papal Domains, and the treatment properly to be accorded them by the armed forces, was accurately reflected in a message which the Combined Chiefs of Staff sent to General Eisenhower in December 1943. This reads substantially as follows:

1. The Vatican City is to be treated as an independent neutral state.

2. Allied troops must avoid violating territory of the Vatican City.
3. Allied troops must also avoid the Papal Domains which, although not having international status as neutral territory, are entitled to full diplomatic immunity. While every precaution must be taken to avoid violating territory of the Vatican City during the assault upon Rome, the diplomatic immunity of the Papal Domains should not be allowed to interfere with military operations, artillery fire, bombing, etc., during assault.

On December 10, 1948 the Vatican presented to us a claim for \$1,523,810.98 in damages. However, the United States Army Claims Service determined through a survey of the damage that a reasonable assessment, based upon the costs of labor and materials as of April 1945 and calculated according to the then prevailing exchange rate of 100 lire to the dollar, would be \$964,199.35. It is understood that the principal reason for the difference between the Vatican figure and the United States Army figure is that the latter does not take account of the cultural and artistic value of the destroyed or damaged property.

While the Department agrees with the intent of H.R. 10766 that payment of an appropriate sum should be made as compensation for the damage sustained at Castel Gandolfo, it believes that such payment is a special matter for determination by the Congress, and that the record should show that the payment is made ex gratia and not as a matter of legal liability.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

For the Secretary of State:

Robert C. Hill
Assistant Secretary